

# **Third District Court of Appeal**

## **State of Florida**

Opinion filed October 19, 2016.  
Not final until disposition of timely filed motion for rehearing.

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No. 3D15-1348  
Lower Tribunal No. 07-44469

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**Tina Russo, as Executor de son tort of the  
Estate of Phyllis Frazier, deceased,  
Appellant/Cross-Appellee,**

vs.

**Philip Morris USA, Inc., a Virginia corporation, and R.J. Reynolds Tobacco  
Company, a North Carolina corporation,  
Appellees/Cross-Appellants.**

An Appeal from the Circuit Court for Miami-Dade County, Beatrice Butchko, Judge.

Gerson & Schwartz, Edward S. Schwartz and Philip M. Gerson, for appellant/cross-appellee.

Arnold & Porter, and Geoffrey J. Michael, (Washington, DC); Shook Hardy & Bacon, L.L.P., and William P. Geraghty and Rachel A. Canfield, for appellee/cross-appellant Philip Morris USA, Inc.; Jones Day, and Gregory G. Katsas, (Washington, DC); Womble Carlyle Sandridge & Rice, and Geoffrey K. Beach and Howell A. Burkhalter, (Winston-Salem, NC); Carlton Fields Jordan Burt, and Jeffrey A. Cohen, for appellee/cross-appellant, R.J. Reynolds Tobacco Company.

Before WELLS and LOGUE, JJ., and LEVY, Senior Judge.

WELLS, J.

The estate of a tobacco plaintiff appeals a final judgment in the defendant tobacco companies' favor, wherein the estate maintained an addiction to cigarettes containing nicotine was a legal cause of plaintiff's disease and death. Finding no merit to the claims of error raised, we affirm the final judgment and therefore find no need to and do not, address the tobacco company's cross-appeal.